

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

JERRY L. BURDICK
5612 Hidden Glen Court
Westlake Village, CA 91362

**Applicant for Certified Public
Accountant Certificate**

Respondent.

Case No. SI-2010-31

OAH No. L-2011060312

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
California Board of Accountancy as its Decision in this matter.

This Decision shall become effective on

March 22, 2012

It is so ORDERED

February 2, 2012



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY

1. KAMALA D. HARRIS
Attorney General of California
2. GREGORY J. SALUTE
Supervising Deputy Attorney General
3. DESIREE TULLENERS
Deputy Attorney General
4. State Bar No. 157464
300 So. Spring Street, Suite 1702
5. Los Angeles, CA 90013
Telephone: (213) 897-2578
6. Facsimile: (213) 897-2804
Attorneys for Complainant
7.

8. **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9. **DEPARTMENT OF CONSUMER AFFAIRS**
10. **STATE OF CALIFORNIA**

11. In the Matter of the Statement of Issues
Against:

12. **JERRY L. BURDICK**
13. 5612 Hidden Glen Court
14. Westlake Village, CA 91362

15. **Applicant for Certified Public**
Accountant Certificate

16. Respondent.

Case No. SI-2010-31
OAH No. L-2011060312

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17. ***IT IS HEREBY STIPULATED AND AGREED*** by and between the parties to the above-
18. entitled proceedings that the following matters are true:

19. **PARTIES**

20. 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
21. Accountancy. She brought this action solely in her official capacity and is represented in this
22. matter by Kamala D. Harris, Attorney General of the State of California, by Desiree Tulleners,
23. Deputy Attorney General.

24. 2. Respondent Jerry L. Burdick (Respondent) is represented in this proceeding by
25. attorney Terri Lilley, whose address is: Latham & Watkins LLP, 355 South Grand Avenue, Los
26. Angeles, California 90071-1560.

27. 3. On or about August 27, 2009, Respondent filed an Application for Certified Public
28. Accountant License dated August 18, 2009, with the California Board of Accountancy.

1 establish a factual basis for the charges in the Statement of Issues, and that Respondent hereby
2 gives up his right to contest those charges.

3 10. Respondent agrees that his Application for Certified Public Accountant License is
4 subject to denial and he agrees to be bound by the CBA's probationary terms as set forth in the
5 Disciplinary Order below.

6 **CONTINGENCY**

7 11. This stipulation shall be subject to approval by the California Board of Accountancy.
8 Respondent understands and agrees that counsel for Complainant and the staff of the California
9 Board of Accountancy may communicate directly with the CBA regarding this stipulation and
10 settlement, without notice to or participation by Respondent or his counsel. By signing the
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
12 to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to
13 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order
14 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
15 between the parties, and the CBA shall not be disqualified from further action by having
16 considered this matter.

17 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
18 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
19 effect as the originals.

20 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
23 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
24 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
25 writing executed by an authorized representative of each of the parties.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the CBA may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

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7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event Respondent should leave California to reside or practice outside this state, Respondent must notify the CBA in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the CBA.

8. **Active License Status.** Respondent shall at all times maintain an active license status with the CBA, including during any period of suspension. If the license is expired at the time the CBA's decision becomes effective, the license must be renewed within thirty (30) days of the effective date of the decision adopting this stipulated settlement.

9. **SEC Registration.** Respondent shall obtain registration with the SEC within twelve (12) months of the effective date of the decision adopting this stipulated settlement. Additional time may be granted if requested at least ninety (90) days in advance, and if Respondent can demonstrate that the additional time resulted from delays of the SEC in approving the registration.

10. **Violation of Probation.** If Respondent violates probation in any respect, the CBA, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against Respondent during probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

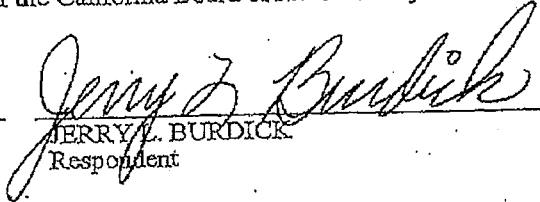
11. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Terri Lilley. I understand the stipulation and the effect it will have on my Applicant for Certified Public Accountant Certificate. I enter into this Stipulated

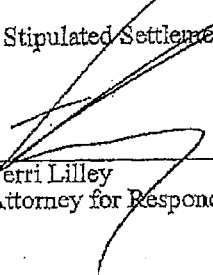
1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the California Board of Accountancy.

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4 DATED: 11/29/2011


JERRY L. BURDICK
Respondent

6
7 I have read and fully discussed with Respondent Jerry L. Burdick the terms and conditions
8 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
9 its form and content.

10 DATED: 29 November 2011


Terri Lilley
Attorney for Respondent

12
13 **ENDORSEMENT**

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
15 submitted for consideration by the California Board of Accountancy of the Department of
16 Consumer Affairs.

17
18 Dated: 12-1-11

Respectfully submitted,

19 KAMALA D. HARRIS
Attorney General of California
20 GREGORY J. SALUTE
Supervising Deputy Attorney General

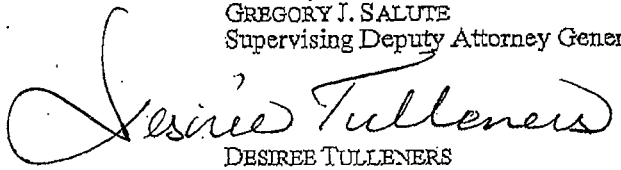
21 
22 DESIREE TULLENERS
23 Deputy Attorney General
24 Attorneys for Complainant
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Exhibit A

Statement of Issues No. SI-2010-31

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

Case No. SI-2010-31

12 **JERRY L. BURDICK**
13 5612 Hidden Glen Court
Westlake Village, CA 91362

STATEMENT OF ISSUES

14 Applicant for Certified Public Accountant
15 Certificate

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Patti Bowers (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22 2. On or about August 27, 2009, the California Board of Accountancy (Board),
23 Department of Consumer Affairs received an Application for Certified Public Accountant License
24 from Jerry L. Burdick (Respondent). On or about August 18, 2009, Jerry L. Burdick certified
25 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application.

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JURISDICTION

12. This Statement of Issues is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

13. Section 475 of the Code states:

"(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

....
(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. . ."

14. Section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

....
(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3)(A) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made. . ."

15. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

1 Each board shall take into account all competent evidence of rehabilitation furnished by the
2 applicant or licensee."

3 16. Section 5110 of the Code states, in pertinent part:

4 "(a) After notice and an opportunity for a hearing, the board may deny . . . an application for
5 a license or registration to any individual who has committed any of the following acts:

6
7 (4) Any act that if committed by an applicant for licensure would be grounds for
8 denial of a license or registration under Section 480 or if committed by a licensee or a registrant
9 would be grounds for discipline under Section 5100."

10 **REGULATORY PROVISIONS**

11 17. California Code of Regulations, title 16, section 99, states, in pertinent part:

12 "For purposes of denial, suspension, or revocation of a certificate or permit pursuant to
13 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act
14 shall be considered to be substantially related to the qualifications, functions or duties of a
15 certified public accountant or public accountant if to a substantial degree it evidences present or
16 potential unfitness of a certified public accountant or public accountant to perform the functions
17 authorized by his certificate or permit in a manner consistent with the public health, safety, or
18 welfare. Such crimes or acts shall include but not be limited to those involving the following:

19 (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind. . ."

20 18. California Code of Regulations, title 16, section 99.1, states, in pertinent part:

21 "When considering the denial of a certificate or permit under Section 480 of the Business
22 and Professions Code, . . . the board, in evaluating the rehabilitation of the applicant and his
23 present eligibility for a certificate or permit will consider the following criteria:

24 (1) Nature and severity of the act(s) or offense(s).

25 (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or
26 offense(s) under consideration which also could be considered a grounds for denial. . .

27 (3) The time that has elapsed since commission of the act(s) or offenses(s) referred to
28 in subdivision (1) or (2).

1 (4) The extent to which the applicant . . . has complied with any terms of . . . restitution
2 or any other sanctions lawfully imposed against the applicant...

3
4 (6) Evidence if any, of rehabilitation submitted by the applicant . . ."

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 ***(Act Involving Dishonesty, Fraud or Deceit)***

7 19. Respondent's application is subject to denial under sections 475(a)(3) and (4), and
8 480(a)(2), in that, Respondent committed an act involving dishonesty, fraud, or deceit with the
9 intent to substantially benefit himself or another, or substantially injure another. The
10 circumstances are as follows:

11 a. On or about August 14, 2008, a final judgment was entered against Respondent
12 in the civil action entitled SEC v. Michael F. Crowley and Jerry L. Burdick, in the United States
13 District Court for the Southern District of California, Case No. 08 CV1390 JAH JMA,
14 suspending him from appearing or practicing before the Commission as an accountant and
15 ordering him to pay \$25,000. The final judgment permanently enjoined him from future
16 violations of Section 17(a)(2) and (3) of the Securities Act of 1933 and Rules 13a-14, 13b2-1, and
17 13b2-2 of the Exchange Act, and aiding and abetting violations of Section 13(a) and 13(b)(2)A)
18 of the Exchange Act and Rules 12b-20 and 13a-13.

19 b. The circumstances behind the judgment are that between on or about August
20 1993 to May 2007, Respondent served as a director on SeraCare Lifesciences, Inc., ("SeraCare²")
21 board. Respondent served as SeraCare's interim chief financial officer from February 2005
22 through May 2005.

23
24
25 ² During the relevant time period, SeraCare operated as a supplier and manufacturer of
26 biological products for the biotechnology and pharmaceutical industry with its principal
27 headquarters in Oceanside, California; and its common stock was registered pursuant to Section
28 12(g) of the Exchange Act and listed on the Nasdaq National Market. From at least 2004 through
at least March 2006, SeraCare's fiscal year ended on September 30.

1 c. In September 2004, Respondent created a general inventory reserve account in
2 connection with acquired inventory following a major acquisition. Respondent manipulated these
3 general inventory reserves in the second and third quarters of 2005, causing SeraCare's net
4 income before taxes to be inflated by approximately 20% in the second quarter and about 17% in
5 the third quarter of 2005, as reported in its Form 10-Q for the second quarter ended March 31,
6 2005 and its Form 10-Q for the third quarter ended June 30, 2005.

7 d. The misleading financial statements from SeraCare's 2005 Second Quarter
8 Form 10-Q were also included in a Form S-1 registration statement filed by SeraCare on May 11,
9 2005, in connection with the offering of three million shares of SeraCare's common stock.

10 e. Respondent, as SeraCare's interim chief financial officer, signed and certified
11 SeraCare's 2005 Second Quarter Form 10-Q and was substantially involved in the preparation
12 and filing of SeraCare's 2005 Third Quarter Form 10-Q. Respondent knew, or should have
13 known, that both filings were materially misleading.

14 f. During a 2005 audit, Respondent made, or caused to be made, material
15 misrepresentations to SeraCare's auditors. Respondent created and backdated a letter that was
16 given to the auditors as support for recognizing revenue on an almost \$1 million sale before the
17 close of the 2005 fiscal year. During the same audit, Respondent provided SeraCare's auditors
18 with an increased inventory valuation without any documented or verifiable support.

19 g. Respondent aided and abetted SeraCare's uncharged violations of Section 13(a)
20 and 13(b)(2)(A) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder. Respondent also
21 violated Rules 13a-14, 13b2-1, and 13b2-2 of the Exchange Act and Section 17(a)(2) and (3) of
22 the Securities Act.

23 **SECOND CAUSE FOR DENIAL OF APPLICATION**

24 *(Substantially Related Act Involving Dishonesty, Fraud or Breach of Fiduciary Responsibility)*

25 20. Respondent's application is subject to denial under California Code of Regulations,
26 title 16, section 99, in that, Respondent committed an act involving dishonesty, fraud, or breach
27 of fiduciary responsibility substantially related to the qualifications, functions or duties of a
28 certified public accountant, as set forth in paragraph 19 above.

1 THIRD CAUSE FOR DENIAL OF APPLICATION

2 *(Act, If Done by Licentiate, Would be Grounds for Suspension or Revocation)*

3 21. Respondent's application is subject to denial under sections 475(a)(4), 480(a)(3)(A),
4 and 5110(a)(4), in that, Respondent committed an act, which if done by a licentiate of the
5 business or profession in question, would be grounds for suspension or revocation of license, as
6 set forth in paragraph 19 above.

7 FOURTH CAUSE FOR DENIAL OF APPLICATION

8 *(Substantially Related Act to Qualifications, Functions, or Duties of the Profession)*

9 22. Respondent's application is subject to denial under sections 480(a)(3)(B) and
10 5110(a)(4), in that, Respondent committed an act which is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the application is made,
12 as set forth in paragraph 19 above.

13 FIFTH CAUSE FOR DENIAL OF APPLICATION

14 *(Suspension by SEC)*

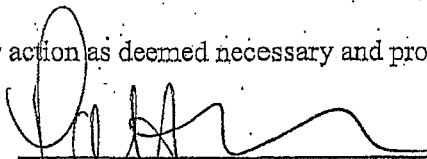
15 23. Respondent's application is subject to denial under section 5100, subdivisions (h) and
16 (l), in that, Respondent was suspended from appearing or practicing before the SEC, as set forth
17 in paragraph 19 above.

18 PRAYER

19 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the California Board of Accountancy issue a decision:

- 21 1. Denying the application of Jerry L. Burdick for Certified Public Accountant License;
22 and
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: March 9, 2011

25 
26 RUTH BOWERS
27 Executive Officer
28 California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant